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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/493,750	01/28/2000	Purnendu Shekhar Ojha	NEXTAG-00308	2623
28960	7590	06/22/2007	EXAMINER	
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086				POND, ROBERT M
ART UNIT		PAPER NUMBER		
3625				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/493,750	OJHA ET AL.	
	Examiner	Art Unit	
	Robert M. Pond	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 April 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,4 and 6-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1, 4, and 6-31 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02 April 2007 has been entered.

Response to Amendment

The Applicant amended independent claims 1, 25, 26, and 27. All pending claims (1, 4, and 6-31) were examined in this non-final office action.

Response to Arguments

Applicant's arguments filed 02 April 2007 have been fully considered but they are not persuasive. Walker discloses a third-parties offering supplemental pricing referred to by Walker as subsidies to facilitate a deal between a buyer and a seller via a conditional purchase offer system. The subsidy covers the difference that stands between buyer and seller. The Applicant amended independent claims and based argument on the amended subject matter. Walker

in combination with Walker '129 teach and suggest the third-party subsidy being applied dynamically (i.e. after the offer-counteroffers are on the table).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. **Claims 1, 4, 6, and 12-31 are rejected under 35 USC 103(a) as being unpatentable over Walker (US 6,754,636, incorporating by reference Walker US 5,794,207, hereinafter “Walker '207”) in view of Walker (US 6,332,129, hereinafter “Walker '129).**

Walker teaches a comparison shopping system and method that allows a buyer (i.e. a first party) to submit production information with a desired bid price to a remotely connected purchasing system. Based on the buyer offer information, the purchasing system selects a particular product (such as a manufacturer and model number) from a plurality of possible products from a plurality of sellers (i.e. second parties), and presents products from one or more sellers that meet the buyer's criteria (see at least abstract; Fig. 1A and 1B; col. 7, lines 32-47). Walker teaches subsidies being provided by a party- a manufacturer (i.e. a third party to a retailer acting as the seller), the purchasing system (i.e. a third-party), a retailer (i.e. a third-party), and by example a credit card company (see at least col. 7, lines 43-47; col. 8, lines 4-30; col. 30, lines 45). Walker further discloses:

- Providing information relating to a transaction between a first party and a second party to a third party via the wide area network: first, second, and third parties are connected to the Internet or wide area networks using the Web and using various computing and communication devices (see at least Figs. 1A and 1B; col. 5, lines 1-17; col. 6, line 66 through col. 7, line 24). third-parties (e.g. purchasing system taking action to close a deal between buyer and seller; manufacturer taking action to close a deal between a buyer and retailer; credit card company taking action to close a deal between a buyer and seller); fourth-party or another party (e.g. credit card company taking action to close a deal between a buyer and a seller being managed by the purchasing system (see at least col. 7, lines 48-61; col. 8, lines 15-25)).
- enabling the third party to facilitate consummation of the transaction between the first and second parties by transmitting a counteroffer or an acceptance from the third party via the wide area network, and enabling the third party to cover at least part of a first difference between the first bid price and the first ask price. Counteroffer to provide \$50 subsidy by a third party (e.g. credit card company) if buyer agrees to submit a credit card application (see col. 8, lines 19-30); purchasing system (i.e. third-party) can consummate the deal between a buyer making an offer (i.e. bid) and seller's price (i.e. ask price). When determining whether to accept a buyer's offer for a given product, the purchasing system may determine

the subsidy amount provided by the manufacturer for the product (see at least col. 37, lines 43-62); secondary offer sent to seller (see at least Fig. 26C; col. 31, lines 21-30).

Walker teaches all the above as noted under the 103(a) rejection and teaches supplemental pricing information provided by a third-party or fourth party (i.e. subsidy) to close the deal between and buyer and a seller. Walker appears to describing supplemental pricing information that is pre-arranged or pre-determine prior to buyer-seller offer-counteroffers. Although Walker does not disclose enabling the third party to dynamically facilitate consummation of the transaction between the first and second parties by transmitting a counteroffer or an acceptance from the third party via the wide area network after receiving the first bid price and the first ask price. Walker in combination with Walker '129 teaches and suggests the claimed invention. Walker '129 teaches a method of subsidizing offers to make low consumers' offers acceptable before the offers are rejected. For example, if a consumer's offer of \$100 for an airline ticket through the priceline.com system is low in comparison to the available fare of \$125, the CPO Management System (i.e. purchasing system) will make such a determination and apply a subsidy amount of \$25 to the offer to make it more likely to be accepted by a seller (see at least col. 3, lines 3-10). Therefore it would have been obvious to one of ordinary skill in the art a time the invention was made to modify the system

and method of Walker to implement a dynamic implementation of subsidies to close deals between a buyer and seller as taught by Walker '129, in order to increase the chances a buyer will take the deal.

- Notifying the second party of the counteroffer transmitted to the first party: seller receives offers from the purchasing system and communications offer acceptances/rejections. First party and second party who eventually accept an offer are notified (see at least col. 14, lines 16-26); counteroffer embodiments (207': see at least col. 22, lines 39 through col. 23, line18).
- Notifying the second party of the acceptance transmitted to the first party: seller receives offers from the purchasing system and communications offer acceptances/rejections. First party and second party who eventually accept an offer are notified (see at least col. 14, lines 16-26); counteroffer embodiment with acceptance (207': see at least col. 22, lines 39 through col. 23, line18):
- Filtering: purchasing system applies business rules to filter bids based on at least one criterion (e.g. location of buyer) (see at least col. 11, lines 52-67); minimum acceptable price range by seller (207': see at least col. 23, lines 45-59).
- Second bid/second ask price: counteroffer embodiments (207': see at least col. 22, lines 39 through col. 23, line18).

- *Business rules and criteria*: purchasing system automatically applies rules associated with second party; response options (see at least col. 14, lines 38-58); waiting a predetermined time period (e.g. discounting a product as it nears its expiration period) (see at least col. 12, line 5); sending offer data to a seller on a periodic basis (see at least col. 13, lines 44-50); implementing business protocol (i.e. rules that govern participation) (207': see at least col. 28, line 18 through col. 30, line 15); processing a seller's request using a minimum price range set by seller (207': see at least col. 23, lines 45-59).
- *Mutually exclusive bid groups*: offers sent to group of sellers within a specific subject area (207': see at least col. 18, lines 28-33).
- *Computer program product*: Inherent in Walker '207 are the structures necessary to permit a computer program product to execute the computer instructions necessary to function as a computerized reservation service.

Pertaining to claim 25

Rejection of claim 25 is based on similar rationale as noted above.

2. **Claims 7-10 are rejected under 35 USC 103(a) as being unpatentable over Walker (US 6,754,636 which incorporates by reference Walker US 5,794,207 hereinafter referred to as "Walker '207") and Walker '129 (US 6,332,129), further in view of Chelliah (US 5,710,887).**

Walker and Walker '129 teach all the above as noted under the 103(a) rejection and further teach a) buyers, sellers, and retailers accessing a web server-based purchasing site over the Internet (Walker '207), b) using a browser application to submit offers/counteroffers and accept offers ('Walker '207), and c) a third party offering subsidies to facilitate sales (Walker '636), but do not specifically disclose transmitting a web page to the third party, an entry in the web page corresponding to the transaction between the first and second parties. Chelliah teaches a system and method of a buyer interacting with multiple storefronts by accessing a remote central electronic mall server using a web browser. Chelliah teaches various business rules used to provide subsidies to customers to facilitate sales, a third-party monitoring the buyer's activity on a seller's electronic storefront using a web-based dashboard application, and teaches the third-party offering subsidies (i.e. incentives) to increase sales for the electronic store front. Chelliah further teaches using active objects such as icons, buttons, and links for selection purposes (see at least col. 6, lines 37-44; col. 23, line 48 through col. 24, line 42). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system and method of Walker to implement a web page dashboard with an active objects as taught by Chelliah, in order to provide a third-party with an interactive user interface to facilitate sales.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6112185 (Walker) August 2000; teaches use of offering an instant rebate by a third party at the time of negotiations to close a deal between a buyer and seller.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert M. Pond
Primary Examiner
June 5, 2007